

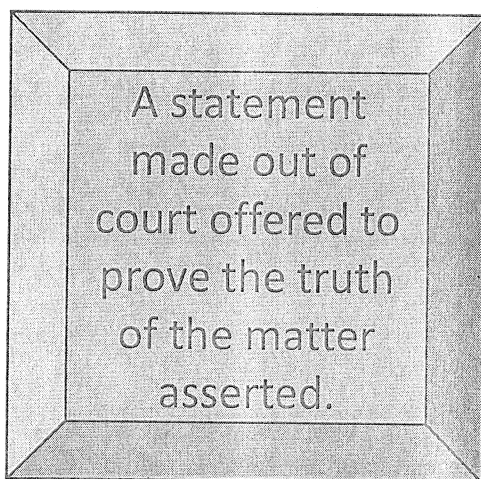
Rules of Evidence in Small Claims Court

"The rules of evidence applicable in the trial of civil actions generally are observed." GS 7A-222

"In a trial before the judge, sitting without a jury, the ordinary rules as to the competency of evidence applied in a trial before a jury are to some extent relaxed, for the reason that the judge with knowledge of the law is able to eliminate from the testimony he hears that which is immaterial and incompetent and consider that only which tends properly to prove the facts to be found."

Muirhead Const. Co. v. Housing Authority of Durham, 1 N.C.App. 181, 60 S.E.2d 542 (1968)

Hearsay



Where was it made?

What was the content?

What is it being offered to show?

Every rule has exceptions. . .

- Hearsay testimony is admissible if
 - It's an admission by a party.
 - It's a spontaneous or excited utterance.
 - It's a present-sense impression
 - It's about then-existing physical, emotional, or mental condition.

Written Evidence Can Be Hearsay, Too!



Writings or records of acts, events, conditions, opinions, or diagnosis, made at or near the time by, or from information transmitted by, a person with knowledge are admissible if kept in the regular course of business and if it was the regular course of business to make that record, unless the source of information or circumstances of preparation indicate a lack of trustworthiness.

Business Records Exception

Determining Credibility: What Do You Think About?

- Motive to lie
- Corroborating evidence
- Demeanor
- Ability to testify to details
- Person in best position to observe
- Which version seems more likely

Evidence Policy

- Many magistrates **admit** all evidence unless it is objected to (but may give it no weight).
- If you don't admit all evidence, decide what inadmissible evidence you will refuse to admit.
- Presence of attorney changes how much will be objected to. Policy must address frequent objections.
- Policy must also address situation in which only one side is represented.
- When you must resolve a direct conflict in evidence of a material fact, will you address it or ignore it?